

Remarks

Applicant is submitting this response for continued examination of the application.

The Examiner has continued the rejection of the claims based on U.S. Patent No. 5,573,515 of Wilson. The Examiner's view is that the Wilson patent discloses an adjustable fill rate and the prospect that a syringe may be re-filled. Specifically, the Examiner's reasoning is that Wilson "indicates that before [a] syringe is completely emptied, it is expelled of air and refilled, and this process may happen over again, and that the user can alter the rate and amount for the safety of the patient."

Applicant respectfully submits that, even accepting that Wilson shows filling, partially emptying, and re-filling a syringe, and the potential for adjusting the rate of filling, Wilson fails to show the invention as recited in the claims herein, specifically:

Regarding claim 9, this claim recites, after "expelling substantially all air from the fill tube", the step of "filling the syringe at a first rate wherein aeration of the contrast media is prevented, said first rate being faster than a second rate that is a maximum fill rate if air is not previously expelled from the fill tube." Wilson does not mention specific fill rates, nor is there mention of the use of a fill rate that is faster than a maximum fill rate if air is not previously expelled from the fill tube. Specific fill rates are not disclosed by Wilson, and Wilson does not mention the existence of a maximum fill rate (e.g., a rate that avoids aeration). Thus, Wilson does not and could not disclose the potential for filling at a rate faster than such a maximum fill rate after air is expelled. This concept is simply not presented or suggested by Wilson.

Regarding claim 12, this claim also recites “expelling substantially all air from a fill tube coupled between [a] syringe and [a] second contrast container” and then, “resuming filling the syringe from the second contrast container at a first rate wherein aeration of the contrast media is prevented, said first rate being faster than a second rate that is a maximum fill rate if air is not previously expelled from the fill tube.” Here again, Wilson does not discuss specific fill rates, or any potential maximum rate. Wilson could not, therefore, disclose the potential for filling at a rate faster than a maximum fill rate after air is expelled.

Applicant has submitted new claims 18-24 directed to the present invention; these claims recite the steps of “drawing medical fluid into a syringe”, “determining if expulsion of at least some of the medical fluid from the syringe has occurred” and then “filling the syringe, wherein the filling occurs at the first rate if the determining results in a determination that at least some of the medical fluid has not been expelled from the syringe, and wherein the filling occurs at a second rate that is faster than the first rate if the determining results in a determination that at least some of the medical fluid has been expelled from the syringe.” With respect to claim 18 and its dependent claims, Wilson does not disclose a determination whether expulsion of some fluid has occurred, or the use of such a determination as a criterion for whether filling occurs at a first rate or a second rate. Wilson lacks any such function or disclosure of the purpose of such a function.

In view of the forgoing clear distinctions of the claim recitations from the Wilson patent, Applicant submits that the present claims are patentable there over and requests early transmission of a Notice of Allowability.

If any petition for extension of time is necessary to accompany this communication, please consider this paper a petition for such an extension of time, and apply the appropriate extension of time fee to Deposit Account 23-3000. If any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

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